Supreme Court, U.S.
FILED

10-381 JUL 31 2010

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

CLARENCE L. VANCE,

Petitioner,

v.

PEOPLE OF THE STATE OF ILLINOIS,

Respondent

On Petition For A Writ Of Certiorari To
The Illinois Second District Appellate Court

PETITION FOR A WRIT OF CERTIORARI

Clarence L. Vance
Petitioner, Pro Se
2203 Halsted Rd.
Rockford, IL 61103
(815) 637-2986

QUESTIONS PRESENTED FOR REVIEW

1. Did Congress or did this Court by *Rooker-Feldman* intend 28 U.S.C. 1257 to allow a Bankruptcy Court to entertain a real estate ownership claim contrary to the ownership of that same real estate as was adjudicated and set forth in a prior state-court FINAL JUDGMENT ORDER, and to thereupon effectively void that prior state-court judgment by authorizing a sale of that same real estate and issuing the subject title document on behalf of a named party to that prior state-court judgment?

2. Did Congress intend 11 U.S.C. 544(b) and 11 U.S.C. 550(a) to allow a Bankruptcy Court to consider the request of a Bankruptcy Trustee to authorize a sale of that real estate and to issue the subject title document to that real estate for the sole benefit of a secured creditor, absent any unsecured creditor in that Bankruptcy Estate to benefit from such a sale?

3. Is that noted subject title document void or is it valid and therefore able to confer lawful authority upon a state court to entertain a subsequent criminal charge and prosecute that charge to a conviction, based solely upon that title document?

4. Did the Brady v. Maryland (1963, 373 U.S. 83) decision of this Court intend to allow the State to seek the subject conviction by intentionally suppressing material evidence from the trial jury?

PARTIES TO THE PROCEEDING

A list of all parties to the proceeding in the Illinois Second District Appellate Court whose judgment is the subject of this petition is as follows:

Clarence L. Vance, *Petitioner,*
2203 Halsted Road
Rockford, Illinois 61103
(815) 637-2986

Joseph P. Bruscato, *Respondent,*
Winnebago County State's Attorney
400 West State Street
Rockford, Illinois 61101
(815) 987-3179
Represented by:
Lawrence M. Bauer, Deputy Director
State's Attorneys Appellate Prosecutor
2032 Larkin Avenue
Elgin, IL 60123
(847) 697-0020

In addition thereto:

Lisa Madigan
Illinois Attorney General
Criminal Appeals Division
100 West Randolph Street, 12th Floor
Chicago, Illinois 60601
(312) 814-3000

No Corporate Entities involved other than the State of Illinois and the County of Winnebago.

TABLE OF CONTENTS

	Page
QUESTION PRESENTED FOR REVIEW	i
PARTIES AND CORPORATE STATEMENT	ii
TABLE OF AUTHORITIES	iv
OPINIONS BELOW	1
JURISDICTION	1
STATUTORY PROVISIONS INVOLVED	2
STATEMENT OF THE CASE	3
REASONS FOR GRANTING THE WRIT	12
1. The validity of 28 U.S.C. 1257 and *Rooker-Feldman* have been drawn into question:	12
2. The validity of 11 U.S.C. 544(b) and 11 U.S.C. 550(a) have been drawn into question:	18
3. The subject document, issued in the statutory absence of jurisdiction, is void:	19
4. The intent of Brady v. Maryland has been drawn into question:	20
5. The questions presented are important to preserving the integrity of our justice system:	23
CONCLUSION	23
INDEX TO APPENDICES	24

TABLE OF AUTHORITIES CITED

CASES	PAGE
Brady v. Maryland, U.S. Supreme, 373 U.S. 83 (1963)	22, 23
Collier on Bankruptcy, 15th Edition	18, 19
Exxon Mobil, Corp. v. Saudi Basic Industries, Corp., U.S. Supreme, 544 U.S. 283 (2005)	12, 14-16
Garry v. Geils 7th Cir., 82 F.3d 1362 (1996)	14, 16
In Re Intern Loan Network, Inc., 160 BR 1, 18 Bkrtcy, Den. Dist. Colorado (1993)	18
In Re Alpern, Bankruptcy Court, N.D. IL, E.D., 191 B.R. 107 (1995)	19
Lance v. Dennis, U.S. Supreme, 546 U.S. 459 (2006)	16
Levin v. ARDC, 7th Cir., 74 F.3d 763 (1996)	16
People v. Miller, Illinois Supreme, 339 Ill 573 (1930)	17, 20
Reich v. City of Freeport, 388 F. Supp. 953 (1974) U.S. District, N.D. Illinois, W.D.	13, 14, 20
Stoll v. Gottlieb, U.S. Supreme, 305 U.S. 165 (1938)	20

STATUTES

28 U.S.C. 1257(a)	2, 12, 17, 20
11 U.S.C. 544(b) (before 2005)	2, 17, 19, 20
11 U.S.C. 550(a)	2, 17, 19, 20

PETITION FOR WRIT OF CERTIORARI

The Petitioner, Clarence L. Vance, respectfully submits this Petition for a writ of certiorari to review the Illinois Second District Appellate Court judgment.

OPINIONS BELOW

The October 26, 2009 unpublished Illinois Second District Appellate Court Rule 23 Order, affirming the trial court conviction, appears as "App. A" to this Petition.

The November 24, 2009 unpublished Illinois Second District Appellate Court Order, denying the Motion For Reconsideration timely filed on November 16, 2009, cites no authorities and appears as "App. B" to this Petition.

The March 24, 2010 Illinois Supreme Court Order denying Petitioner's December 29, 2009 request for review of the Appellate Court Decision cites no authorities, is unpublished and appears as "App. C" to this Petition.

The May 3, 2010 Illinois Supreme Court Order denying Petitioners April 14, 2010 Motion to Reconsider said denial cites no authorities, is unpublished and appears as "App. D" to this Petition.

BASIS OF JURISDICTION IN THIS COURT

The Illinois Supreme Court denied Petitioner's requests for review on March 24, 2010 (App. C) and denied his Motion for Reconsideration on May 3, 2010 (App. D). The jurisdiction of this Court is invoked under 28 U.S.C. 1257(a).

STATUTORY PROVISIONS INVOLVED

28 U.S.C. 1257(a):

> "Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States."

11 U.S.C. 544(b): (prior to 2005 Amendment)

> "The trustee may avoid any transfer of an interest of the debtor in property or any obligation incurred by the debtor that is voidable under applicable law by a creditor holding an unsecured claim that is allowable under section 502 of this title or that is not allowable only under section 502(e) of this title."

11 U.S.C. 550(a):

"Except as otherwise provided in this section, to the extent that a transfer is avoided under section 544, 545, 547, 548, 549, 553(b), or 724(a)of this title, the trustee may recover, for the benefit of the estate, the property transferred, or if the court so orders, the value of such property . . ."

STATEMENT OF THE CASE

The Illinois Department of Transportation filed a Complaint for Condemnation as Winnebago County Circuit Court Eminent Domain Case No. 97-ED-1 on January 29, 1997. That Complaint was filed so "*to ascertain the just compensation for taking the property sought to be taken for highway purposes*" (APP. F-1) and to be paid to the lawful owner of that real estate by the State of Illinois as was stipulated and agreed to in the Stipulation For Final Judgment Order (APP. G).

State Bank of Davis, being a named party Defendant in that 97-ED-1 Case (APP. F-1, G-1, and H-1) was served with a Summons and a copy of that 97-ED-1 Complaint on February 20, 1997.

Petitioner Clarence L. Vance filed an individual Voluntary Chapter 7 Petition for Relief in the United States Bankruptcy Court for the Northern District of Illinois, Western Division, as Case No. 97-B-50687 on March 10, 1997. In his schedules, he listed real estate owned as "NONE" and named three creditors.

Two of those named creditors, General Casualty Company and Robert Clair, executed a document on June 23, 1997, in that 97-ED-1 Case, relinquishing their claim against Debtor Clarence L. Vance.

State Bank of Davis was the only one of those three creditors to appear in Bankruptcy Case 97-B-50687 and did not appear as an unsecured creditor but did appear as a secured creditor only and, as such, obtained an Order on April 25, 1997, by which:

> "*the State Bank of Davis is given relief from the automatic stay in order to pursue its State Court remedies and that the automatic stay from the filing of this case to the date of the entry of this Order is annulled with respect to actions taken by the State Bank of Davis.*" (APP. E)

State Bank of Davis, upon obtaining that April 25, 1997 Order, had the opportunity "*to pursue its State Court remedies*" against Debtor Clarence L. Vance by presenting its "*undivided one-half interest*" (APP. J-2) real estate ownership claim in that 97-ED-1 Case, which claim was not alleged until the Adversary Complaint (APP. J) was filed on February 24, 1999.

Nevertheless, a Default Judgment was entered against State Bank of Davis on June 13, 1997, for failing to appear or plead in that 97-ED-1 Case. Relief from that judgment was never sought.

The Winnebago County Circuit Court rendered its 97-ED-1 FINAL JUDGMENT ORDER on October 27, 1998, and therein found that: "*1. All defendants other than Harriet P. Vance as Trustee under a Declaration of Trust dated October 22, 1993, known as the Thousand Hills Trust No. 1, have been dismissed with prejudice or defaulted pursuant to prior court orders . . .*" (APP. F-2); and: "***ORDERED AND ADJUDGED AS FOLLOWS:***

> *1. . . . The Winnebago County Treasurer shall pay the sum of Eight thousand forty-three and no/100 dollars ($8,043.00) to Harriet P. Vance as Trustee under a Declaration of Trust dated October 22, 1993, known as the Thousand Hills Trust No. 1 upon presentation of a certified copy of the instant Final Judgment Order.*
>
> *2. The terms of the Stipulation for Final Judgment Order* (APP. G) *entered into between the parties shall be incorporated into and made a part of the instant order.*
>
> *3. The order of October 27, 1998* (APP. H), *vesting the plaintiff with fee simple title to Parcel No. 291YY11/6, is hereby confirmed.*" (APP. F-4).

That Stipulation for Final Judgment Order (APP. G) was the agreement between the State and the lawful real estate owner of Record as to the course

of that action and the sum to be paid to that owner for the taking of that subject "*2.702 AC*" (APP. H-3) Parcel and the termination of that 97-ED-1 Case.

That state-court 97-ED-1 FINAL JUDGMENT ORDER judicially confirmed the Winnebago County Recorder's Office Public Title Records and thereby validated all recorded transfers of ownership of, and the continuous chain of title to, the subject real estate at that time as established by the following: May 12, 1983 Warranty Deed to Clarence L. Vance and Harriet P. Vance (Doc. No. 9713107); September 2, 1983 Quit Claim Deed from Clarence L. Vance to Harriet P. Vance (Doc. No. 9713108); October 22, 1993 Warranty Deed in Trust from Harriet P. Vance to Harriet P. Vance as Trustee under a Declaration of Trust dated October 22, 1993, known as the Thousand Hills Trust No. 1 (Doc. No. 9528856).

That FINAL JUDGMENT ORDER, by so confirming that ORDER VESTING TITLE, judicially confirmed the fact of Record that real estate consisted of the "*TOTAL AREA 181.400 AC.*" prior to the taking of that "*2.702 AC*" Parcel and consisted of the "*AREA REMAINING 178.618 AC.*" (APP. H-3) after the taking of that Parcel. Consequently, that FINAL JUDGMENT ORDER established and judicially confirmed that the Title to that "*REMAINING 178.618 AC.*" was vested in "*4. The remaining interested party . . . Harriet P. Vance as Trustee under a Declaration of Trust dated October 22, 1993, known as the Thousand Hills Trust No. 1*" (APP. F-2).

No modification or review of that 97-ED-1 state-court judgment was sought in any Illinois Court.

Nevertheless, four months after the rendering of that prior state-court judgment, the Adversary Complaint (APP. J) which initiated Bankruptcy Case No. 99-A-5023 on February 24, 1999, was prepared by the attorney for the Trustee of the Bankruptcy

Estate of Clarence L. Vance and filed in the name of that Bankruptcy Trustee.

The attorney for that Bankruptcy Trustee was, at that same time, also one of the attorneys for State Bank of Davis.

Each party named in that federal complaint was named as a Party Defendant or in privity with a Party Defendant to that prior state-court judgment.

That Bankruptcy Trustee, by representing the interest of State Bank of Davis and he also being represented by a State Bank of Davis attorney, was in privity with Party Defendant State Bank of Davis.

In disregard of the fact that all recorded transfers of title to the subject real estate, including that September 2, 1983 Quit Claim Deed, had been confirmed by that prior state-court judgment (APP. F), that Adversary Complaint, in the absence of any valid foundation or support, effectively alleged that "*Mr. Vance*" still owns "*an undivided one-half interest in*" (APP. J-2) the "*REMAINING 178.618 AC.*" (APP. H-3).

That Adversary Complaint also alleged that, by executing that September 2, 1983 Quit Claim Deed which corrected the title transfer error in the May 12, 1983 Warranty Deed, "*8. Mr. Vance conveyed and diluted his interest in the Farm Property for the purpose of evading satisfaction of a judgment against him.*" (APP. J-3).

Contrariwise, the Bank did not initiate the suit seeking that noted judgment until October, 1985, and did not obtain that judgment until May 19, 1986.

That Adversary Complaint states that: "*13. The State Bank of Davis is a secured creditor of this estate . . .* " (APP. J-3) and "*14. Pursuant to 11 U.S.C. 544(b), said transfer is voidable by the Trustee.*" (APP. J-4).

Based solely upon that "*undivided one- half interest*" (APP. J-2) ownership claim belatedly alleged in that subsequently filed Adversary Complaint, that

attorney asked the Bankruptcy Court, in the name of the Bankruptcy Trustee, "*to enter an order authorizing the Trustee to sell the Farm Property . . .*" (APP. J-5) for the purported benefit of that Bankruptcy Estate, which Estate, of Record, had no unsecured creditor to benefit from such a sale.

That Adversary Complaint effectively asked the Bankruptcy Court to void that prior state-court judgment for the sole benefit of secured creditor State Bank of Davis, the only creditor to appear in that Bankruptcy Case.

The Bankruptcy Court did entertain that belatedly alleged "*undivided one-half interest*" (APP. J-2) ownership claim and thereupon entered an order authorizing a Sale of the subject real estate.

Prior to that Sale a Commitment For Title Insurance, bearing "*Effective Date: June 23, 2000 at 8:00 a.m.*", was obtained by or for the Bankruptcy Trustee, which Commitment, also absent any foundation or support, alleged that: "*4. Title to the Fee simple estate or interest in said land is at the effective date hereof vested in: THOMAS LESTER, TRUSTEE IN BANKRUPTCY FOR CLARENCE L. VANCE, BANKRUPT*" (APP. K-1).

That Title Commitment ownership claim, being in conflict with both that prior state-court judgment Thousand Hills Trust adjudicated ownership and also that Adversary Complaint "*undivided one-half interest*" alleged ownership, suggested, absent foundation, that a document had been executed vesting title to that "*REMAINING 178.618 AC.*" (APP. H-3) ("*178.62 Acres*": APP. K-2) in the name of that Bankruptcy Trustee.

In point of fact, no document transferring title or interest in that land to that Bankruptcy Trustee exists in that no such document was ever executed.

Nevertheless, that Commitment For Insurance stated that before a Title Policy could be issued:

"*Instruments in insurable form which must be executed, delivered and duly filed for record: a. Trustee's Deed from THOMAS LESTER, TRUSTEE IN BANKRUPTCY FOR CLARENCE L. VANCE, BANKRUPT conveying fee simple title to PURCHASER TO BE NAMED.*" (APP. K-2).

Copies of all recorded Deeds and that prior state-court judgment, which confirmed the validity of those Deeds, were on display at that subject sale for viewing by those attending. Those displayed title instruments established that real estate to be lawfully owned by Thousand Hills Trust, and not owned by either Clarence L. Vance or his Bankruptcy Trustee.

Alan F. Miller, despite verbally expressing his concern to that Bankruptcy Trustee during that sale as to the validity of both that sale and the deed to be issued as a result of that sale, became a "*Purchaser*" of a portion of that "*REMAINING 178.618 AC.*" (APP. H-3) ("*178.62 Acres*": APP. K-2).

Subsequent to that sale, the subject document, pertaining to a portion of that "*REMAINING 178.618 AC.*" (APP. H-3) and entitled "*TRUSTEE'S DEED*" and dated September 26, 2000, was issued to "*ALAN F. MILLER, ("Purchaser")*" (APP. L-1) by "*THOMAS J. LESTER, Trustee of the Bankruptcy Estate of Clarence L. Vance, Case No. 97 B 50687*" (APP. L-3), as so required by that Commitment for Title Insurance (APP. K-2).

Craig Dummer, despite having attended that sale and having reason to know that a question existed as to the validity of both that sale and the title document so issued, signed a Farm Lease, dated September 26, 2000, with that Alan F. Miller and planted soybeans on that real estate in Spring, 2001.

On October 18, 2001, Petitioner was working on that real estate as directed by Thousand Hills Trust and was arrested and charged for allegedly damaging property of Craig Dummer.

The Appellate Court stated that "*defendant . . . did not own the crops he is accused of damaging*" (APP. A-4) but failed to acknowledge that Craig Dummer also "*did not own th*(os)*e crops*", having planted them on land established by that prior state-court judgment to be lawfully owned by Thousand Hills Trust, not owned by Clarence L. Vance or his Bankruptcy Trustee.

The criminal conviction at issue is based solely upon that document so issued to "*ALAN F. MILLER, ("Purchaser")*" (APP. L-1).

During trial court hearings conducted in the instant Case during April and September, 2004, the State made verbal acknowledgements of Record that Petitioner had not owned that real estate since 1983.

Nevertheless the State continued to prosecute as if either he or his Bankruptcy Trustee was a sole owner in 2000, and had capacity to convey lawful title.

To suppress evidence as to how the subject document was issued, the State filed a Motion in Limine on September 10, 2004, and therein stated:

> "*6. That the issue of whether the United State's Bankruptcy Court had the authority to sell the land in question is irrelevant and immaterial to any of the issues before the court in this case.*" and asked:
>
> " . . . *that this court . . . enter an order preventing the Defendant, Clarence L. Vance from presenting any evidence, by any means, regarding his belief that the land that is the subject of this case was acquired by the landowner improperly and preventing the Defendant from making any reference to that subject in the presence of the jury.*" (APP. M-2)

In late September, 2004, Petitioner discovered the pertinence of 28 U.S.C. 1257 to the issuing of the subject document (APP. L) and the existence of the *Rooker-Feldman* doctrine.

On October 13, 2004, Petitioner filed a motion

addressing that pertinence. Nevertheless, the State's Motion in Limine was granted by the "10/15/04" trial court order which therein stated in part:

"*2) The Motion in Limine is granted to the extent that the Defendant is not permitted to comment on or present evidence concerning the bankruptcy proceeding.*" (APP. N)

As a result of the 2005 *Exxon Mobil* and the 2006 *Lance v. Dennis* clarifications of the *Rooker-Feldman* doctrine by this Court, Petitioner has come to better understand the pertinence of 28 U.S.C. 1257 and *Rooker-Feldman* to the issuing of the document upon which the subject charge and conviction are based.

Petitioner filed a motion in the trial court on October 16, 2006, citing *Exxon Mobil* and other federal decisions pertinent to 28 U.S.C. 1257 depriving the Bankruptcy Court of subject matter jurisdiction to authorize the issuing of the subject document (APP.L).

The December 1, 2006 trial court order denied that motion by stating, in part, that:

> "*1) The ownership interest of Alan Miller is irrelevant to the issue of whether damage was done to property belonging to Craig Dummer.*
>
> *2) The issue raised by the Defendant are res judicata as already determined by the action in 97 ED 1, and the Bankruptcy proceeding.*
>
> *3)The Rooker-Feldman is in-applicable to these state court proceedings.*" (APP. O)

Contrariwise: (1) The ownership interest claim as to that real estate is demonstrably relevant in that Thousand Hills Trust was adjudicated by that prior state-court judgment to be the lawful owner of that land. Consequently, Craig Dummer, in actuality, was a trespasser and had no lawful interest in the subject soybeans; (2) Both ownership claims subsequently alleged in that bankruptcy proceeding conflict with each other and also are in conflict with the ownership

established by that prior 97-ED-1 judgment; and (3) Both 28 U.S.C. 1257 and *Rooker-Feldman* deprive the bankruptcy court of jurisdiction to entertain either subsequent and conflicting ownership claim or to thereupon effectively void that prior state judgment by so authorizing the issuing of the document upon which the criminal charge and conviction are based.

A jury trial was conducted on April 23 and 24, 2007. Prior to that trial, Petitioner reminded the Court that he had not entered a plea to the subject charge, that fact of Record was demonstrably ignored.

During that trial, all efforts by Petitioner to inform the jury of irregularities involved in issuing the subject document (APP. L) were objected to by the State and the October 15, 2004 "gag-order" (APP. N) was enforced by the Court. Petitioner also was not allowed to inform the jury either that the State, on several occasions, acknowledged that Petitioner had not owned that real estate since 1983, and that he had not entered a plea to the subject criminal charge.

Petitioner was sentenced on November 2, 2007 and timely appealed that sentence as Appellate Case No. 2-08-0214. The decision in that Case is included herein as APP. A.

Petitioner did not become aware of the material misrepresentation as to the applicability of 11 U.S.C. 544(b), as stated in that Adversary Complaint, until about the time the sentence was appealed.

The Appellate Court decision (APP. A) avoided entire the issue as to the applicability of *Rooker-Feldman* by stating (APP. A-4) as follows:

> "*Defendant's opposition to the federal court's rulings is premised on the notion that the eminent domain ruling constituted a state court's determination that defendant's wife, and not he, held an interest in the farmland. Thus, defendant argues, the bankruptcy*

court's later declaring void his purported transfer of his interest in the property to his wife amounted to that court's overturning a state court decision, in violation of the Rooker-Feldman doctrine."

Petitioner filed a Motion for Reconsideration of that Appellate Court Decision on November 16, 2009, which was denied on November 24, 2009 (APP. B).

Petitioner filed a Petition for Appeal as a Matter of Right or, in the Alternative, Petition for Leave to Appeal in the Illinois Supreme Court on December 29, 2009, which was denied on March 24, 2010 (APP. C).

Petitioner filed a Motion For Reconsideration of the order denying petition for leave to appeal on April 14, 2010, which was denied on May 3, 2010 (APP. D).

REASON FOR GRANTING THE PETITION

This Court should grant certiorari in that Acts of the Congress of the United States and decisions of this Court and other Federal Courts have been drawn into question by actions of both the Bankruptcy Court and the Illinois Courts in the instant Case.

1. The validity of 28 U.S.C. 1257 and *Rooker-Feldman* have been drawn into question:

"This case concerns what has come to be known as the *Rooker-Feldman* doctrine, ..." *Exxon Mobil Corp. vs. Saudi Basic Industries, Corp.*, 544 U.S. 283, (2005).

"Since *Feldman*, this court has never applied *Rooker-Feldman* to dismiss an action for want of jurisdiction.", *Exxon Mobil, supra*, at 287. This Case provides this Court with an opportunity to clarify circumstances when or if such an action, or a subsequent action based thereupon, should be

dismissed for want of jurisdiction.

On April 25, 1997, Secured Creditor State Bank of Davis, was granted its request for "*relief from the automatic stay in order to pursue its State Court remedies*" (APP. E) against Petitioner. Therefore, State Bank of Davis had the opportunity to present its "*undivided one-half interest*" (APP. J-2) ownership claim of the subject real estate in that 97-ED-1 state-court Case.

Nevertheless, State Bank of Davis failed to appear or plead in that 97-ED-1 Case and a Default Judgment was entered against the Bank on June 13, 1997. Relief from that judgment was never sought.

The state-court FINAL JUDGMENT ORDER (APP. F), entered in that 97-ED-1 Case on October 27, 1998, established the lawful owner of that real estate to be Thousand Hills Trust. Modification or review of that judgment was never sought in any Illinois Court.

Due to the long time relationship between State Bank of Davis and Legal Counsel Woodruff A. Burt,[1] the Bank had reason to know that state-court;

> "Defendant had an adequate remedy for review of the State Court determinations by appeal or by petition to the Supreme Court of the United States for a writ of certiorari. (*The Bank*) chose not to resort to either remedy. (*The Bank's*) failure to petition the appropriate forum acted as a waiver of the right to seek reversal

---

1 Woodruff A. Burt was State Bank of Davis Legal Counsel during the 99-A-5023 Bankruptcy proceedings, from which the subject title document originated, and, during those proceedings, had consultations, of Record, with the attorney for the Trustee of the Bankruptcy Estate of Clarence L. Vance. That same Woodruff A. Burt, as City of Freeport Counsel in that *Reich v. City of Freeport* Case, successfully argued, before the same District Court, the 28 U.S.C. 1257 absence of subject matter jurisdiction of a lower federal court to review a state-court judgment.

of the State Court determinations." *Reich v. City of Freeport*, 388 F. Supp. 953, 956, (1974).

In reference to the finality of prior state-court judgments, this Court has stated that: "Unless and until . . . reversed or modified [the state-court judgment] would be an effective and conclusive adjudication." *Exxon Mobil, supra*, at 289 footnote.

> "In Feldman itself, the Supreme Court acknowledged this consequence: By failing to raise his claim in state court a plaintiff may forfeit his right to obtain review of the state court decision in any federal court. This result is eminently defensible on policy grounds. . . . (noting that lack of jurisdiction in Supreme Court, due to state-court waiver, does not imply jurisdiction in lower federal courts)." *Garry v. Geils*, 82 F.3d 1362, 1369, (1996).

Both State Bank of Davis and that Bankruptcy Trustee, being so represented by that State Bank of Davis attorney, had reason to know that:

> "Federal courts are courts of limited jurisdiction and are empowered to hear only those cases which have been entrusted to them by a Congressional grant of jurisdiction. They have no power to review the judgment of a state court, except where a substantial federal question is involved. In such a case, the final judgment or decree rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court of the United States pursuant to the provisions of 28 U.S.C. 1257. But federal district courts are limited to cases of original jurisdiction and cannot entertain a proceeding to modify or reverse a state court proceeding. To do so would be an exercise of appellate jurisdiction.

Reich v. City of Freeport, supra at 955.

This Court has also stated that: "*Rooker-Feldman* bars a losing party in state court from seeking what in substance would be appellate review of the state judgment in a United States district (*i.e., bankruptcy*) court, . . ." *Exxon Mobil, supra,* 289.

Contrary thereto, four months after the entry of that prior state-court judgment, that State Bank of Davis attorney filed that Adversary Complaint (APP. J) and therein effectively alleged that "*Mr. Vance*" still owns "*an undivided one-half interest in*" (APP. J-2) the "*REMAINING 178.618 AC.*" (APP. H-3).

That Adversary Complaint, based only upon that subsequent ownership claim in conflict with the ownership established by that prior state-court judgment (APP. F), indirectly asked the Bankruptcy Court "*to enter an order authorizing the Trustee to sell the Farm Property*", (APP. J-5) for the sole benefit of secured creditor State Bank of Davis.

This Court has held such federal suits to be impermissible and has:

> " . . emphasized that appellate jurisdiction to reverse or modify a state-court judgment is lodged, initially by §25 of the Judiciary Act of 1789, 1 Stat. 85, and now by 28 U.S.C. 1257, exclusively in this Court. Federal (*bankruptcy*) courts . . . are empowered to exercise original, not appellate, jurisdiction. . . . (*The subject federal complaint*) . . . essentially invited (*a*) federal court() of first instance to review and reverse (*an*) unfavorable state-court judgment(). We declared such suits out of bounds, *i.e.*, properly dismissed for want of subject matter jurisdiction. . . . Among federal courts, the *Rooker* Court clarified, Congress had empowered only this Court to exercise appellate authority

'to reverse or modify' a state-court judgment. . . ." *Exxon Mobil, supra,* at 284, 285.

"Review of such determinations, the *Feldman* opinion reiterated, can be obtained only in this Court." *Exxon Mobil, supra,* at 286.

> "Because 1257, as long interpreted, vests authority to review a state court's judgment solely in this Court . . . the (*Bankruptcy Court*) . . . lacked subject matter jurisdiction. ('The *Rooker-Feldman* doctrine . . . does not authorize (*bankruptcy*) courts to exercise appellate jurisdiction over state-court judgments, which Congress has reserved to this Court, see §1257(a).')" *Exxon Mobil, supra,* at 292.

> "A (*bankruptcy*) court engages in impermissible appellate review when it hears claims that are 'inextricably intertwined' with the state court decision. . . . We have also held that claims for relief are barred by *Rooker-Feldman* if upholding the claims and granting relief would effectively void the state court ruling." *Levin v. ARDC,* 74 F.3d 763, 766 (1996).

"The Feldman Court found that . . . claims that are 'inextricably intertwined' with state court judgments negate federal (*bankruptcy*) court jurisdiction because such claims 'in essence' call for review of the state court's decision." *Garry v. Geils, supra,* at 1369.

> "The *Rooker-Feldman* doctrine . . . includes three requirements: (1) the party against whom the doctrine is invoked must have actually been a party to the prior state-court judgment or have been in privity with such a party; (2) the claim raised in the federal suit must have been actually raised or inextricably intertwined with the state-court judgment; and

(3) the federal claim must not be parallel to the state-court claim." *Lance v. Dennis*, 546 U.S. 459, 464, (2006).

All three of those *Rooker-Feldman* requirements were satisfied by that Adversary Complaint as follows: (1) All parties to that Complaint were named parties to that prior state-court judgment or in privity with State Bank of Davis; (2) That "*undivided one-half interest*" (APP. J-2) ownership claim in that Adversary Complaint was inextricably intertwined with the Thousand Hills Trust ownership of that same real estate adjudicated by that prior state-court judgment; and (3) That Adversary Complaint was filed four months after that 97-ED-1 state-court Case ended.

Nevertheless, the Bankruptcy Court effectively voided that prior state-court judgment by entertaining that "*undivided one-half interest*" (APP. J-2) ownership claim and thereupon entering orders purporting to authorize and to confirm a sale of that real estate and the issuing of the document (APP. L) upon which the subject criminal conviction is based entire.

"Every judgment of a court rendered without jurisdiction is a nullity -- not merely voidable but void -- and may be disregarded. It is subject to attack by any person at any time in any court and in any proceeding in which it is brought in question." *People v. Miller*, 339 Ill 573, 578 (1930).

In the trial court, Petitioner "*brought in question*" the issue as to whether 28 U.S.C. 1257 and *Rooker-Feldman* deprived the Bankruptcy Court of jurisdiction to effectively void that prior state-court judgment by authorizing and confirming the subject sale and the issuing of the subject document (APP. L).

The only response from the trial court was that "*The Rooker-Feldman is in-applicable to these state court proceedings.*" (APP. O) The Appellate Court avoided

that jurisdiction question by making only a passing reference to what the "*defendant argues*" (APP. A-4).

As a consequence, the noted actions of both the Bankruptcy Court and the Illinois Courts conflict with and have drawn into question the validity of 28 U.S.C. 1257 and the *Rooker-Feldman* doctrine.

2. **The validity of 11 U.S.C. 544(b) and 11 U.S.C. 550(a) have been drawn into question:**

That Adversary Complaint states that: "*13. The State Bank of Davis is a secured creditor of this estate . . .* " (APP. J-3) and "*14. Pursuant to 11 U.S.C. 544(b), said* (1983) *transfer is voidable by the Trustee.*" (APP. J-4).

The claim that "*Pursuant to 11 U.S.C. 544(b), said transfer is voidable by the Trustee*" for the sole benefit of secured creditor State bank of Davis was a material misrepresentation of 11 U.S.C. 544(b) and contrary to established Law in that:

"It is not the proper function of the trustee to liquidate property solely for the benefit of secured creditors." *Collier on Bankruptcy*, (15th Ed.) at 725-2.

> "Before the trustee can rely upon section 544(b), he must first show that there is an actual creditor holding an allowable unsecured claim pursuant to section 502 who, under (*Illinois*) law, could avoid the transfer in question. In other words, the trustee cannot act as a hypothetical creditor as allowed in section 544(a); he must show that there is a present unsecured creditor against whom the transfer was fraudulent and voidable under the controlling state law." *In Re Intern Loan Network, Inc.*, 160 BR 1, 18 (1993).

Furthermore, 11 U.S.C. 550(a) deprived that Bankruptcy Trustee of the authority either to recover

or to sell any property under 11 U.S.C. 554(b) for the benefit of the Bankruptcy Estate of Debtor Clarence L. Vance, in that there was no unsecured creditor in that Estate to benefit from such a sale.

> "Property recovered under section 550(a) is retained for the benefit of the estate, and becomes property of the estate under section 541(a)(3). The lead-in portion of section 550(a) limits the trustee by permitting recovery only for the benefit of the estate (i.e., property which is recovered for the benefit of all unsecured creditors and not for the sole benefit of those creditors who could have avoided the transfer). Thus, in general, the trustee . . . may not recover the property transferred or its value when the result is to benefit (*others*) rather than the estate." *Collier on Bankruptcy*, (15th Ed.) at 550-7.

Consequently, the above noted actions of both the Bankruptcy Court and the Illinois Courts conflict with and have drawn into question the validity of 11 U.S.C. 554(b) and 11 U.S.C. 550(a).

3. **The subject document, issued as authorized in the statutory absence of jurisdiction, is void:**

"The subject matter jurisdiction of the federal court is established by federal statute in accord with Article III of the Constitution. U.S. Constitution, Art. III, §1-2; 28 U.S.C. §1330-1368." *In Re Alpern*, (1995) Bankruptcy Court, N.D. IL, E.D., 191 B.R. 107, 109.

Based upon that subsequently alleged "*undivided one-half interest*" ownership claim (APP. J-2), that Adversary Complaint indirectly asked the bankruptcy court to effectively void the ownership established by that prior state-court judgment. That request being

made for the sole benefit of secured creditor State Bank of Davis.

The bankruptcy court entertained both that belated "*undivided one-half interest*" ownership claim and the subsequent "THOMAS LESTER, TRUSTEE" (APP. K) ownership claim and thereupon purported to authorize the subject document (APP. L) to be issued.

Contrariwise, the noted statutory "limitations on jurisdiction prevent such a procedure. The plaintiff (*Bankruptcy Trustee*) cannot circumvent the boundaries imposed upon the jurisdiction of th(*e Bankruptcy*) Court." *Reich v. City of Freeport, supra*, 955.

28 U.S.C. 1257 and *Rooker-Feldman* deprived the Bankruptcy Court of subject matter jurisdiction either to modify or to effectively void the lawful ownership of the subject real estate established by that prior state-court final judgment (APP. F).

11 U.S.C. 554(b) and 11 U.S.C. 550(a) further deprived that Bankruptcy Trustee, and consequently the Bankruptcy Court, of the authority to void that judicially confirmed 1983 Quit Claim Deed for the sole benefit of secured creditor State Bank of Davis.

"The validity of an order of a federal court depends upon that court's having jurisdiction over both the subject matter and the parties." *Stoll v. Gottlieb*, 305 U.S. 165, 171 (1938).

Consequently, the subject document (APP. L), authorized to be issued in those statutory absences of jurisdiction, is void and is of no lawful force or effect "*and may be disregarded*" (*People v. Miller, supra*, 579).

4. The intent of Brady v. Maryland has been drawn into question:

The October 15, 2004 "gag-order" (APP. N) was enforced during the trial to suppress evidence, by the

accused, from the jury based upon the State's claim:

"*That the issue of whether the United State's Bankruptcy Court had the authority to sell the land in question is irrelevant and immaterial to any of the issues before the court in this case.*" (APP. M-2)

Contrariwise, that issue is manifestly relevant and material to the issues before the trial court.

As a consequence, evidence was suppressed from the jury that the subject document (APP. L) was issued by a non-owner of that real estate, the State's acknowledgements that the Defendant had not owned the subject real estate since 1983, and that Defendant had not entered a plea to the subject criminal charge.

The State had alternative theories: (1) that the Defendant was working on that land as directed by Thousand Hills Trust, established to be the lawful owner by that prior state-court judgment, and the actions complained of were in the nature of a civil title dispute and not criminal in nature; or (2) that the Defendant was working against alleged interests of Craig Dummer as a renter of Alan Miller, who claimed to be the owner of that real estate based only upon the subject document (APP. L) so issued to him.

In response to "*Defendant's . . . argument . . that . . . the State impinged his due process rights as articulated in Brady v. Maryland*", the Appellate Court stated that:

> "*However, as the State observes, "Brady held that a defendant suffers a deprivation of due process when the prosecution withholds from a defendant *** evidence which, if made available, would tend to exculpate him or reduce the penalty." Defendant does not contend that any evidence was withheld from him, and he therefore alleges no cognizable claim of a Brady violation.*" (APP.A-4)

It appears to be the position of the State and the Illinois Courts that due process is not violated by

the State directly suppressing exculpatory evidence from the trial jury but is violated only if evidence is suppressed by the State from an accused, thereby indirectly suppressing that evidence from the jury and effectively causing the evidence presented to be false.

Contrariwise, the *Brady* Court also stated that:

> "It is a requirement that cannot be deemed to be satisfied by mere notice and hearing if a state has contrived a conviction through the pretense of a trial which in truth is but used as a means of depriving a defendant of liberty through a deliberate deception of court and jury by the (*suppression of evidence*) known to be (*material*). Such a contrivance by a state to procure the conviction . . of a defendant is as inconsistent with the rudimentary demands of justice as is the obtaining of a like result by intimidation." *Brady v. Maryland*, 373 U.S. 83, 86 (1963); (citing *Mooney v. Holohan*, 294, U.S. at 112).
>
> "In Napue v. Illinois, 360 US 264, 269 . . . we extended the test formulated in Mooney v. Holohan when we said: "The same result obtains when the State, although not soliciting false evidence, allows it to go uncorrected when it appears. . . . The principle of Mooney v. Holohan is not punishment of society for misdeeds of a prosecutor but avoidance of an unfair trial to the accused." *Brady, supra*, 87.
>
> ". . the 'suppression of evidence favorable' to the accused was itself sufficient to amount to a denial of due process." *Brady, supra*, 86 (citing *United States v. Baldi*, 195, F2d at 820).

Evidence in the possession of both the accused and the State was wilfully suppressed by the exercise and enforcement of that "gag-order" (APP. N) during

trial. Some of that evidence consisted of pertinent and noted acknowledgments and actions by the State prior to trial that were favorable to the accused, being either exculpatory or impeaching and being material to his guilt or innocence.

Consequently, the suppression of that material evidence from the jury has drawn into question the intent of this Court in Brady v. Maryland.

5. **The questions presented are important to preserving the integrity of our justice system:**

This Case raises the issue as to the validity of the herein noted enactments of the U.S. Congress and decisions of this Court and other State and Federal Courts. The Rule of Law requires that the integrity of the U.S. Constitution, Acts of the U.S. Congress and those Court decisions be protected and preserved.

In order to preserve public confidence in the U.S. Constitution and Acts of the U.S. Congress and Court decisions pertinent thereto, this Court should grant certiorari and clarify both the circumstances as to when or if the herein noted Federal Statutes require an action, or a subsequent action based thereupon, to be dismissed for want of jurisdiction and also to clarify the intent of Brady v. Maryland.

CONCLUSION

For the foregoing reasons, this Petition for Writ of Certiorari should be granted.

Dated: July 31, 2010

Respectfully submitted,

Clarence L. Vance

Clarence L. Vance
Petitioner

INDEX TO APPENDICES

APP. A: Decision of the Illinois Second District Appellate Court (October 26, 2009);

APP. B: Order of the Illinois Second District Appellate Court (November 24, 2009);

APP. C: Order of the Illinois Supreme Court (March 24, 2010);

APP. D: Order of the Illinois Supreme Court (May 3, 2010);

APP. E: Bankruptcy Court ORDER granting relief from Automatic Stay ("4/25/97");

APP. F: State-court FINAL JUDGMENT ORDER ("10/27/98") (Pertinent pages);

APP. G: STIPULATION FOR FINAL JUDGMENT ORDER, incorporated into FINAL JUDGMENT ORDER;

APP. H: ORDER VESTING TITLE confirmed by FINAL JUDGMENT ORDER ("10/27/98")

APP. I: Legal description attached as Exhibit "A-1" to the FINAL JUDGMENT ORDER, the STIPULATION FOR FINAL JUDGMENT ORDER, and the ORDER VESTING TITLE.

APP. J: Adversary Complaint filed on February 14, 1999 as Bankruptcy Case 99-A-5023.

APP. K: Security Union Title Insurance Company 70116 Commitment for Title Insurance (Pertinent portions of Schedule A and B)

APP. L: Document upon which the subject criminal conviction is based entire.

APP. M: State's Motion in Limine

APP. N: Order granting Motion in Limine

APP. O: December 1, 2006 trial court order

No. 2--08--0214
Filed: October 26, 2009
IN THE APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS Plaintiff-Appellee, v. CLARENCE L. VANCE, Defendant-Appellant,	) Appeal from the Circuit) Court of Winnebago) County) No. 01--CF--2701) Honorable) J. Edward Prochaska) Judge Presiding

RULE 23 ORDER

Defendant, Clarence Vance, appeals his conviction of criminal damage to property in connection with his destroying soybean crops on leased farmland. (Defendant argued that the land was actually owned not by the complainants' lessor but by a trust on whose behalf defendant cleared the crops.) On appeal defendant contends that (1) the trial court erred in refusing to consider his argument that the lessor acquired faulty title to the land through an invalid bankruptcy auction, and (2) the State violated his right to due process by suppressing what he views as exculpatory evidence regarding title to the land. For the reasons that follow, we affirm the judgment of the trial court.

Defendant asserts that he and his wife obtained the disputed land before he conveyed his interest to her in 1983. In 1993, she conveyed her interest to a trust, defendant testified that he was neither a beneficiary nor a trustee of the trust. In 1997, defendant filed for personal bankruptcy. See In re Vance, 2 Fed. Appx. 505, 506 (7th Cir. 2000) (appeal from a ruling of the bankruptcy judge). In October

1998, the department of transportation filed a complaint against several parties, including the trust, for condemnation of a portion of the property. The final judgment order related to the condemnation complaint indicated that "[a]ll defendants other than [defendant's wife, as trustee for the trust], have been dismissed with prejudice or defaulted pursuant to prior court orders," the order indicated that defendant's wife would receive compensation for the taking of the land.

In February 1999, the trustee in defendant's bankruptcy action filed an adversary complaint against defendant and his wife seeking an order authorizing it to sell defendant's interest in the farmland. In re Vance. 2 Fed. Appx. at 506 (7th Cir. 2000). Defendant and his wife responded with motions to dismiss arguing that defendant had divested himself of any interest in the property by transferring his interest to his wife in 1983. In re Vance, 2 Fed. Appx. at 506 (7th Cir. 2000). The bankruptcy court denied the motions and ordered defendant and his wife to answer the complaint, but they did not so and were eventually held in default. In re Vance, 2 Fed. Appx. at 506 (7th Cir. 2000). the order holding defendant in default stated that defendant's interest in the property was "property of the estate" and that "[a]ny attempted pre-petition or post-petition conveyance of the property [was] voidable and]was] *** voided by [the] Court." On appeal from that order, defendant did not seek to explain his default but instead argued what the seventh Circuit described as a "collateral estoppel theory" that had been rejected several times prior. In re Vance, 2 Fed. Appx. at 507 (7th Cir. 2000). The Seventh Circuit therefore upheld the decision to hold defendant in default. In re Vance, 2 Fed. Appx. at

507 (7th Cir. 2000).

Defendant's wife later appealed the bankruptcy court's approval of the bankruptcy trustee's proposed sale of the farmland, she argued that defendant had divested himself of his interest and that the order in the 1998 condemnation action deemed her the sole owner of the land. In re Vance, 12 Fed. Appx. 380, 381 (7th Cir. 2001). The Seventh Circuit rejected her claims because her failure to obtain a stay of the bankruptcy sale rendered the claims moot. In re Vance, 12 Fed. Appx. at 381.

The testimony and evidence at trial established that, in October 2001, defendant entered upon the farmland and destroyed the crops that were growing there, without permission from the person who had purchased title to the land from the bankruptcy estate or from the farmer who was leasing the land and growing the crops. Defendant testified that he entered the land to clear the crops so that he could plant crops for his wife's trust, which he claimed was the true owner of the farmland. After the jury convicted defendant or criminal damage to property and the trial court resolved his postjudgment motions, defendant timely appealed.

Defendant's first argument on appeal is that he was rightfully on the property and rightfully destroyed the crops on the property, because the bankruptcy sale of the property was invalid and thus void. The State responds by arguing that (1) the rulings of the federal courts on this issue are binding absent some showing that those courts were without jurisdiction, and since the issue of jurisdiction was litigated in the federal courts (defendant appears to have raised the same arguments before those courts as he raises here), we must give full faith and credit to those courts determinations that jurisdiction lay,

(2) defendant cannot challenge the federal court's rulings because, since he obtained no stay of the bankruptcy sale, his arguments are moot, (3) even if defendant owned the land, he did not own the crops he is accused of damaging, and (4) notwithstanding all of the above arguments, the bankruptcy sale was valid.

We agree with the State. Even if we were to assume--very incorrectly, for the reasons outlined in the state's brief--that we could revisit the judgments of the federal courts, we disagree with defendant's argument that those rulings were improper. Defendant's opposition to the federal court's rulings is premised on the notion that the eminent domain ruling constituted a state court's determination that defendant's wife, and not he, held an interest in the farmland. Thus, defendant argues, the bankruptcy court's later declaring void his purported transfer of his interest in the property to his wife amounted to that court's overturning a state court decision, in violation of the Rooker-Feldman doctrine. See Rooker v. Fidelity Trust Co., 263 U.S. 413, 68L. Ed. 362, 44 S.Ct. 149 (1923); District of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 75L. Ed. 2d 206, 103 S.Ct. 1303 (1983). However, as the State argues, the eminent domain order did not purport to settle any issue of ownership regarding the farmland. Instead, it noted that all other potential owners had been dismissed from the action and awarded payment to defendant's wife as the only remaining defendant in the case. For that reason, even if we were to overlook the State's first three arguments and review the federal courts' decisions, we see no impropriety in those decisions. We therefore reject defendant's argument that his interest in the land was never transferred to the complainant lessor.

Defendant's second argument is that, by failing to present what he considers exculpatory evidence to the grand jury, and by acquiescing in the trial court's decision to bar him from presenting some evidence at trial, the State impinged his due process rights as articulated in Brady v. Maryland, 373 U.S. 83, 10L. Ed. 2d 215, 83 S.Ct 1194 (1963). However, as the State observes, "Brady held that a defendant suffers a deprivation of due process when the prosecution withholds from a defendant *** evidence which, if made available, would tend to exculpate him or reduce the penalty." Defendant does not contend that any evidence was withheld from him, and he therefore alleges no cognizable claim of a Brady violation.

Defendant's remaining arguments (regarding whether the trial judge here should have been substituted for cause and whether he entered a valid plea) are referenced only in the facts section of his initial brief and are argued for the first time in his reply brief. We therefore will not consider them. See Official Reports Advance Sheets No. 8 (April 11, 2007), R.34(h)(6), eff. March 16, 2007 ("[p]oints not argued" in the argument section of the opening brief "are waived and shall not be raised in the reply brief").

For the foregoing reasons, we affirm the judgment of the circuit court of Winnebago County.

Affirmed.

O'MALLEY, J., with JORGENSEN and HUDSON, JJ, concurring.

(SEAL)
STATE OF ILLINOIS APPELLATE COURT
SECOND DISTRICT

Appeal from the Circuit Court of County of Winnebago

Trial Court No.: 01CF27O1

THE COURT HAS THIS DAY, 11/24/09, ENTERED THE FOLLOWING ORDER IN THE CASE OF:

Gen. No.: 2-08-0214

People v. Vance, Clarence L

Upon consideration of the Petition for Rehearing, (Motion for Reconsideration) filed by appellant, the Petition for Rehearing is hereby denied.
(O'Malley, Jorgensen, Hudson, JJ.)

Robert J. Manqan
Clerk

cc: Clarence L. Vance
Honorable Joseph P. Bruscato
Lawrence M. Bauer, Deputy Director
Jay Paul Hoffmann

109752 SUPREME COURT OF ILLINOIS
SUPREME COURT BUILDING
SPRINGFIELD 62701
(217) 782-2035

March 24, 2010

Mr. Clarence L. Vance
2203 Halsted Rd.
Rockford, IL 61103

No. 109752 - People State of Illinois, respondent, v. Clarence L. Vance, petitioner. Leave to appeal, Appellate Court, Second District.

The Supreme Court today DENIED the petition for appeal as a matter of right or leave to appeal in the above entitled cause.

The mandate of this court will issue to the Appellate Court on April 28, 2010.

(SEAL)
SUPREME COURT OF ILLINOIS
SUPREME COURT BUILDING
SPRINGFIELD 62701

May 3, 2010

Mr. Clarence L. Vance
2203 Halsted Rd.
Rockford, IL 61103

In re: People State of Illinois, respondent, v. Clarence L. Vance, petitioner. Leave to appeal, Appellate Court, Second District. No. 109753 (2-08-0214)

Today the following order was entered in the captioned case.

Motion by petitioner, pro se, for leave to file a motion for reconsideration of the order denying petition for leave to appeal. Motion Denied.

Order entered by the Court.

This Court's mandate has issued forthwith to the Appellate Court, Second District.

Very truly yours,

"Juleann Hornyak"
Clerk of the Supreme Court

cc: Appellate Court, Second District
Hon. Lisa Madigan

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

IN RE:
CLARENCE L. VANCE, CASE NO. 97 B 50687
Debtor,

ORDER

THIS MATTER having come before the Court on April 23, 1997, on the Motion for Relief from the Automatic Stay and Motion to Annul the Automatic Stay filed by State Bank of Davis, and with the court being fully advised in the premises,

IT IS HEREBY ORDERED that the State Bank of Davis is given relief from the automatic stay in order to pursue its State Court remedies, and that the automatic stay from the filing of this case to the date of the entry of this Order is annulled with respect to actions taken by the State Bank of Davis.

DATED: 4/25/97 ENTERED:

"s/Richard B. DeGunther"
Judge Richard B. DeGunther

Daniel M. Donahue
McGreevy, Johnson & Williams, P.C.
P.O. Box 1201
Rockford, IL 61105-1201
(815) 963-8451
#111216

"EOD APR 25 1997"

"0038057 08/01/2000 04:19P 2of8 "s/Kenneth Staaf" Ken Staaf, Winnebago County Recorder

"FILED "10/27/98" MARC A. GASPARINI Clerk of the Circuit Court WINNEBAGO COUNTY, ILLINOIS"

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE 17Th JUDICIAL CIRCUIT
COUNTY OF WINNEBAGO

CASE NO. 97-ED-1

THE DEPARTMENT OF TRANSPORTATION, STATE OF ILLINOIS, BY ILLINOIS ATTORNEY GENERAL JAMES E. RYAN,

Plaintiff,

vs.

MOLLY SCHWARTZ TARBERT, LUANN SCHWARTZ DESMOND AUDREY SCHWARTZ KELLY, KIM SCHWARTZ, JON SCHWARTZ, all heirs at law of OLGA SCHWARTZ, deceased; CLARENCE L. VANCE; HARRIET P. VANCE; HARRIET P. VANCE as Trustee under a Declaration of Trust dated October 22, 1993, known as the Thousand Hills Trust No. 1; STATE BANK OF DAVIS; GENERAL CASUALTY; and ROBERT CLAIR,

Defendants.

FINAL JUDGMENT ORDER

THE MATTER coming onto be heard on the Complaint for Condemnation of the Department of Transportation, State of Illinois, to ascertain the just compensation for taking the property sought to be

taken for highway purposes, as more fully set forth in said complaint, Plaintiff having appeared by James E. Ryan, Attorney General, State of Illinois, through Mary J. Gaziano, Special Assistant Attorney General, and Harriet P. Vance as Trustee under a Declaration of Trust dated October 22, 1993, known as the Thousand Hills Trust No. 1, having appeared pro se, and with the Court having been presented with the original Stipulation for Final Judgment Order duly executed by the parties, **THIS COURT FINDS:**

1. All defendants other than Harriet P. Vance as Trustee under a Declaration of Trust dated October 22, 1993, known as the Thousand Hills Trust No. 1, have been dismissed with prejudice or defaulted pursuant to prior court orders. Harriet P. Vance as Trustee under a Declaration of Trust dated October 22, 1993, known as the Thousand Hills Trust No. 1, has entered her appearance, and this Court has jurisdiction of the subject matter of this proceeding and all parties.

2. Due notice of this hearing has been given, and the demand for trial by jury has been waived by the plaintiff and the remaining defendant.

3. The parties have entered into a Stipulation for Final Judgment Order which was duly filed and is a part of the Court record.

4. The remaining interested party in Parcel No. 291YY11/6 which is legally described in Exhibit "A-1" [1], which is attached hereto and incorporated by reference, is Harriet P. Vance as Trustee under a Declaration of Trust dated October 22, 1993, known as the Thousand Hills Trust No.1.

---

[1] The Exhibit "A-1" legal description is included as APP. I.

5. Said party is entitled to receive the total sum of Eight thousand forty-three and no/100 dollars ($8,043.00), being Seven thousand one hundred and no/100 dollars (7,100.00) for the fair market value of the property taken in fee simple and Nine hundred forty-three and no/100 dollars ($943.00) for damages to the remainder, as full and just compensation for the fee simple title to Parcel No. 291YY11/6 and for damage to the remainder.

6. On or about October 9, 1998, Plaintiff deposited with the Winnebago County Treasurer the preliminary just compensation amount of Eight thousand forty-three and no/100 dollars ($8,043.00). The parties agree that Eight thousand forty-three and no/100 dollars ($8,043.00) is the total amount to be paid to settle this case.

IT IS THEREFORE, ORDERED AND ADJUDGED AS FOLLOWS:

1. Since the parties have agreed that Eight thousand forty-three and no/100 dollars ($8,043.00) is the final judgment amount, the Plaintiff shall not be required to deposit any additional funds with the Winnebago County Treasurer beyond the Eight thousand forty-three and no/100 dollars ($8,043.00) deposited on October 9, 1998 as the preliminary just compensation amount. Accordingly, no judgment for any monetary amount shall be entered as all amounts due to be paid by the Plaintiff have already been deposited with the Winnebago County Treasurer's Office. The Winnebago County Treasurer shall pay the sum of Eight thousand forty-three and no/100 dollars ($8,043.00) to Harriet P. Vance as Trustee under a Declaration of Trust dated October 22, 1993, known as the Thousand Hills Trust No. 1 upon

presentation of a certified copy of the instant Final Judgment Order.

2. The terms of the Stipulation for Final Judgment Order entered into between the parties shall be incorporated into and made a part of the instant order.

3. The order of October 27, 1998, vesting the plaintiff with fee simple title to Parcel No. 291YY11/6 is hereby confirmed.

DATED: "10/27/98" ENTER: "s/J. Todd Kennedy"
JUDGE

APPROVED AS TO FORM:
"s/Harriet P. Vance, Trustee"
Harriet P. Vance as Trustee under a Declaration of Trust dated October 22, 1993, known as the Thousand Hills Trust No. 1

PREPARED BY:
Attorney Mary J. Gaziano - #281
One Court Place, Suite 200
Rockford, Illinois 61101
(815) 962-6800
Attorney for Plaintiff

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE 17Th
JUDICIAL CIRCUIT COUNTY OF WINNEBAGO
CASE NO. 97-ED-1

THE DEPARTMENT OF TRANSPORTATION, STATE OF ILLINOIS, BY ILLINOIS ATTORNEY GENERAL JAMES E. RYAN,

Plaintiff,

vs.

MOLLY SCHWARTZ TARBERT, LUANN SCHWARTZ DESMOND AUDREY SCHWARTZ KELLY, KIM SCHWARTZ, JON SCHWARTZ, all heirs at law of OLGA SCHWARTZ, deceased; CLARENCE L. VANCE; HARRIET P. VANCE; HARRIET P. VANCE as Trustee under a Declaration of Trust dated October 22, 1993, known as the Thousand Hills Trust No. 1; STATE BANK OF DAVIS; GENERAL CASUALTY; and ROBERT CLAIR,

Defendants.

STIPULATION FOR FINAL JUDGMENT ORDER

NOW COMES the Department of Transportation, State of Illinois, Plaintiff, by James E. Ryan, Attorney General, and Mary J. Gaziano. Special Assistant Attorney General, and the remaining defendant, Harriet P. Vance as Trustee under a Declaration of Trust dated October 22, 1993, known as the Thousand Hills Trust No. 1, proceeding pro se, both of whom do hereby stipulate and agree as follows:

1. On January 29, 1997, the plaintiff filed its Complaint for Condemnation relating to certain property to be acquired in fee simple title, name Parcel No. 291YY11/6, the legal description of which

as corrected is more fully described in Exhibit "A-l" [1], which exhibit is attached hereto, incorporated herein, and made a part hereof.

2. All defendants other than Harriet P. Vance as Trustee under a Declaration of Trust dated October 22, 1993, known as the Thousand Hills Trust No. 1, have been dismissed with prejudice or defaulted pursuant to prior court orders. Harriet P. Vance as Trustee under a Declaration of Trust dated October 22, 1993, known as the Thousand Hills Trust No. 1, has entered her appearance, and this Court has jurisdiction of the subject matter of this proceeding and all parties.

3. The cause of action is, by virtue of this stipulation and the Final Judgment Order to be filed, fully compromised and settled.

4. A motion was heretofore filed herein by the plaintiff for the immediate vesting of title in plaintiff to Parcel No. 291YY11/6, and on September 22, 1998 the Court entered an order pursuant to a hearing that date finding the amount of the preliminary just compensation to be a total of Eight thousand forty-three and no/100 dollars ($8,043.00), and on October 27, 1998, the Court entered an order vesting the plaintiff with fee simple title to Parcel No. 291YY11/6, and the Court did authorize plaintiff to take immediate possession of the property.

5. The sum of Eight thousand forty-three and no/100 dollars ($8,043.00), being Seven thousand one hundred and no/100 dollars ($7,100.00) for the fair market value of the property taken and Nine hundred forty-three and no/100 dollars ($943.00) for damage to the remainder is agreed to be just compensation in

---

[1] The Exhibit "A-1" legal description is included as APP. I.

full to be paid by the plaintiff for the fee simple title to Parcel No. 291YY11/6 and for the damage to the remainder, which parcel is legally described in the attached Exhibit "A-1". With the plaintiff having already paid the preliminary just compensation amount of Eight thousand forty-three and no/100 dollars ($8,043.00) to the Winnebago County Treasurer, the parties agree that no additional amount is due to be paid by the plaintiff.

6. The parties hereto agree to the entering of the Final Judgment Order instanter fixing compensation for the taking of the fee simple title to Parcel No. 29IYY11/6, damage to the remainder, and setting forth the conditions of this stipulation. Said Final Judgment Order is being filed contemporaneously with the instant stipulation. This stipulation is the entire and exclusive agreement of the parties and supersedes any written or oral understanding, promise, or agreement, directly or indirectly related to the eminent domain action. All parties by their signatures hereunder waive any right to a jury trial. The parties further agree that the entry of said Order shall terminate this action.

THE DEPARTMENT OF TRANSPORTATION STATE OF ILLINOIS, Plaintiff

By: "s/Mary J. Gaziano"

Mary J. Gaziano, Special Assistant Attorney General

Defendant:

"s/Harriet P. Vance, Trustee"

Harriet P. Vance as Trustee under a Declaration of Trust dated October 22, 1993, known as the Thousand Hills Trust No. 1

PREPARED BY:

Attorney Mary J. Gaziano - #281

One Court Place, Suite 200, Rockford, Illinois 61101.

(815) 962-6800 Attorney for Plaintiff

"9870197 11/06/1998 12:48P 1of9 "s/Kenneth Staaf"
Ken Staaf, Winnebago County Recorder
441-501A(BRK) 09-09-300-004 REC'D NOV 06 1998"

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE 17Th
JUDICIAL CIRCUIT COUNTY OF WINNEBAGO

CASE NO. 97-ED-1

THE DEPARTMENT OF TRANSPORTATION, STATE OF ILLINOIS, BY ILLINOIS ATTORNEY GENERAL JAMES E. RYAN,

Plaintiff,

vs.

MOLLY SCHWARTZ TARBERT, LUANN SCHWARTZ DESMOND AUDREY SCHWARTZ KELLY, KIM SCHWARTZ, JON SCHWARTZ, all heirs at law of OLGA SCHWARTZ, deceased; CLARENCE L. VANCE; HARRIET P. VANCE; HARRIET P. VANCE as Trustee under a Declaration of Trust dated October 22, 1993, known as the Thousand Hills Trust No. 1; STATE BANK OF DAVIS; GENERAL CASUALTY; and ROBERT CLAIR,

Defendants.

ORDER VESTING TITLE

THIS CAUSE coming on for hearing this 27th day of October, 1998, upon the Plaintiffs Motion for Entry of Order Vesting Title, due notice having been given to all Defendants, and with the Court being duly advised in the premises,

IT IS, THEREFORE, ORDERED AND

ADJUDGED AS FOLLOWS:

Plaintiff shall be and hereby is vested with fee simple title to Parcel 291YY11/6, and Plaintiff shall be authorized to take immediate possession of the above-mentioned Parcel 291VYI1/6, which parcel is legally described on the attached Exhibit "A-1". [1]

ENTERED: "10/27/98" "s/J. Todd Kennedy"
JUDGE

APPROVED AS TO FORM:

"s/Harriet P. Vance, Trustee"

AFTER RECORDING, RETURN TO:
ILLINOIS DEPARTMENT OF TRANSPORTATION
819 DEPOT AVENUE
DIXON IL 61021

PREPARED BY:
Attorney Mary J. Gaziano - 281
One Court Place, Suite 200
Rockford, Illinois 61101
(815) 962-6800
Attorney for Plaintiff

---

1 The Exhibit "A-1" legal description is included as App. I.

"9870197 11/06/1998 12:48P 7of9 "s/Kenneth Staff"
Ken Staaf, Winnebago County Recorder [2]

TOWNSHIP 27 NORTH
HARRIET P. VANCE, TRUSTEE
THOUSAND HILLS TRUST NO. I
PARCEL 011/6 1.162 AC.

PART OF THE NORTH HALF OF THE SOUTHWEST QUARTER AND THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 9, T. 21 N., R. 10 E. OF THE FOURTH PRINCIPAL MERIDIAN

TOTAL AREA	181.400	AC.
TOTAL AREA REQ'D	2.702	AC.
AREA IN EX. RDWY.	1.620	AC.
NET AREA REQ'D	1.162	AC.
AREA REMAINING	178.618	AC.

SURVEYOR'S STATEMENT

I hereby state that I am a professional land surveyor in the State of Illinois, that this right-of way survey for F.A.S. Route 49 was made under my direction and that this plat is prepared in accordance with the land acquisition policies and procedures of the Illinois Department of Transportation. Dated this 31 day of March 1994 A.D.

"s/Dale A Rasmussen"
DALE A. RASMUSSEN, IL PLS No. 25313

---

[2] Page "7 of 9" of the ORDER VESTING TITLE is one of several schematic pages but the only such page stating the recorded ownership of the subject real estate involved in that project.

"9870197 11/06/1998 12:48P 3 of 9 "s/Kenneth Staaf" Ken Staaf, Winnebago County Recorder"

P-30/LAL-4563/377H LAND Heirs and Devisees of Olga Schwartz

FAS. Route 49 (Pecatonica Road) Section (Ya-15d) (Y-15d, 111, 1MFT)W&RS-2 Parcel 011/6

A parcel of land in the North Half of the Southwest Quarter and in the Southwest Quarter of the Southwest Quarter of Section 9, Township 27 North, Range 10 East of the Fourth Principal Meridian, Winnebago County, Illinois, described as follows:

Beginning at the Northwest Corner of the Southwest Quarter of said Section 9; thence Easterly on the North Line of said Southwest Quarter, said line having a bearing of North 89 degrees 06 minutes 48 seconds East, a distance of 71.33 feet to a point; thence Southerly on a line having a bearing of South 0 degrees 53 minutes 12 seconds East, a distance of 100.00 feet to a point in the Southerly Right-of-Way Line of a public road designated Brick School Road; thence Southerly on a line having a bearing of South 0 degrees 48 minutes 46 seconds West, a distance of 25.30 feet to a point; thence Southerly on a Line having a bearing of South 0 degrees 19 minutes 59 seconds West, a distance of 500.10 feet to a point; thence Southerly on a line having a bearing of South 2 degrees 02 minutes 59 seconds West, a distance of 200.25 feet to a point; thence Southerly on a line having a bearing of South 0 degrees 48 minutes 46 seconds East, a distance of 100.00 feet to a point; thence Southerly on a line having a bearing of South 0 degrees 37 minutes 10 seconds West, a distance of 200.06 feet to a point; thence Southeasterly on a line having a bearing of South 14 degrees 50 minutes 56

seconds East, a distance of 103.08 feet to a point; thence Southerly on a line having a bearing of South 0 degrees 05 minutes 48 seconds East, a distance of 400.03 feet to a point; thence Southerly on a line having a bearing of South 2 degrees 02 minutes 59 seconds West, a distance of 200.25 feet to a point; thence Southerly on a line having a bearing of South 4 degrees 53 minutes 52 seconds West, a distance of 201.00 feet to a point; thence Southerly on a line having a bearing of South 0 degrees 48 minutes 46 seconds East, a distance of 17.56 feet to a point in the North Line of the premises conveyed to Monte W. Christen and Sharon L. Christen from Bennett Construction Company by Warranty Deed recorded 15 June 1972 as Document Number 72-13-0522 in the Recorder's Office of Winnebago County; thence Westerly on the North Line of said premises so conveyed, said line having a bearing of South 89 degrees 15 minutes 01 second West, a distance of 38.70 feet to a point in the West Line of said Southwest Quarter; thence Northerly on the West Line of said Southwest Quarter, said line having a bearing of North 0 degrees 44 minutes 59 seconds West, a distance of 2042.72 feet to the Point of Beginning.

The above described parcel of land is designated Parcel 011/6, said parcel of land contains 2.782 acres, more or less, of which 1.620 acres, more or less, have been previously set aside for public highway purposes. For the purpose of this description, said North Line of the Southwest Quarter of Section 9 has been assigned the bearing of North 89 degrees 06 minutes 48 seconds East.

The above description affects Tax Parcel Number 441-501.

("FILED 99 FEB 24 PM 2:01
CLERK OF U.S. BANKRUPTCY COURT")
UNITED STATES BANKRUPTCY COURT FOR THE NORTHERN DISTRICT OF ILLINOIS WESTERN DIVISION

IN RE:	**Chapter 7**
CLARENCE L. VANCE,	**Case No.**
Debtor,	**97 B 50687**
THOMAS J. LESTER,	**ADVERSARY NO.**
Trustee,	**99 A 5023**
Plaintiff,	
v.	
CLARENCE L. VANCE, HARRIET P. VANCE, and HARRIET P. VANCE as Trustee under a Trust Agreement dated October 22, 1993 and known as Thousand Hills Trust Number 1	
Defendants.	

ADVERSARY COMPLAINT TO AVOID FRAUDULENT TRANSFER AND RETURN OF PROPERTY OR ITS VALUE AND OTHER RELIEF

The Trustee, Thomas J. Lester, by and through his attorneys, McGreevy, Johnson & Williams, P.C., states as follows for his adversary complaint to avoid fraudulent transfer and return of property or its value and other relief:

COUNT I: FRAUDULENT CONVEYANCE

1. Thomas J. Lester is the duly qualified and acting Trustee in this case.

2. This Court has jurisdiction over this

adversary proceeding pursuant to 28 U.S.C. 1334. This is a core proceeding pursuant to 28 U.S.C. 157(b)(2)(A).

3. The debtor, Mr. Clarence L. Vance ("Mr. Vance") filed a voluntary petition under Chapter 7 of the Bankruptcy Code on March 10, 1997.

4. The Defendant, Harriet P. Vance, is the Debtor's spouse.

5. On May 12, 1983, Mr. Vance received a warranty deed from Ms. Olga Schwartz which granted him an undivided one-half interest in certain real property located the village of Pecatonica, county of Winnebago, state of Illinois, and commonly known as 15858 Brick School Road which is more fully described as follows (hereinafter referred to as the "Farm Property):

> The North Half (1/2) of the Southwest Quarter (1/4) and the Northwest Quarter (1/4) of the South East Quarter (1/4) of Section Nine (9) Township Twenty-seven (27) North, Range Ten (10) East of the Fourth (4th) Principal Meridian, also Lots One through Seven inclusive in the South East Quarter (1/4) of the Southwest Quarter (1/4) as designated upon the Plat accompanying the Commissioner's Report in Cause Number 6224 in the Circuit Court of Winnebago County as said Plat is recorded in Book 63 of Deeds at Page 551 in the Recorder's Office of Winnebago County, Illinois; also the Southwest Quarter (1/4) of the Southwest Quarter (1/4) of the Section, Township and Range aforesaid excepting that part of said premises heretofore conveyed by Deeds recorded in Book 777 of Recorder's Records at Page 46 and Book 1046 of Recorder's Records at page 50 in the Recorder's Office in

Winnebago County, Illinois, situated in Winnebago County, State of Illinois. (Exhibit omitted)

6. Mr. Vance did not record the May 12, 1983 warranty deed until March 26, 1997, approximately 16 days after Mr. Vance had filed his Chapter 7 bankruptcy petition. (Exhibit omitted) Immediately after Mr. Vance recorded the warranty deed, he also recorded a quit claim deed regarding his interest in the Farm Property. (Exhibit omitted) The Quit Claim Deed was to Harriet P. Vance. The interest transferred to Harriett P. Vance may now be held by a revocable trust under the control of Clarence L. Vance and Harriett P. Vance. The Trust is known as Thousand Hills Trust Number 1.

7. As a result of such conveyance, the Debtor will now attempt to argue to this Court that he does not have any interest in the Farm Property.

8. Mr. Vance conveyed and diluted his interest in the Farm Property for the purpose of evading satisfaction of a judgment against him. The transfer was made with no consideration and the assets retained by Mr. Vance following the transfer were insufficient to satisfy the judgment against Mr. Vance. Mr. Vance became insolvent after the conveyance.

9. The transfer is fraudulent in law and in fact and should be set aside.

10. At the time of the conveyance, Mr. Vance had incurred, or reasonably should have believed that he would incur, debts beyond his ability to pay them as they become due.

11. Mr. Vance is still in possession and control of the Farm Property.

12. Mr. Vance made the conveyance with the intent to hinder, delay, and defraud creditors.

13. The State Bank of Davis is a secured

creditor of this estate holding an allowable claim under 11 U.S.C. 502, and was a creditor at the time of the transfer and said conveyance is voidable by said creditor under the Uniform Conveyance Act of the State of Illinois.

14. Pursuant to 11 U.S.C. 544(b), said transfer is voidable by the Trustee.

15. The Trustee is informed and believes that the property fraudulently transferred by Mr. Vance has a fair and reasonable value of approximately $140,000.00.

WHEREFORE, the Trustee, Thomas J. Lester, prays that this Court enter an Order avoiding the above-described fraudulent transfer, ordering the return of the property so transferred or its value of approximately $140,000.00, and for such other relief as the Court deems necessary and proper.

COUNT II: POST-PETITION TRANSFER

1-15. The plaintiff adopts and re-alleges paragraphs I through 15 of Count I, as though said paragraphs were fully set forth herein as paragraphs 1 through 15 of this Count II.

16. Mr. Vance's conveyance of his interest of the Farm Property was a post-petition transfer avoidable under 11 U.S.C. 549. The transfer was not authorized by the court and it was not made to a good faith purchaser for value.

WHEREFORE, the Trustee, Thomas J. Lester, prays that this Court enter an Order avoiding the above-described post-petition transfer, ordering the return of the property so transferred or its value of approximately $140,000.00, and for such other relief

as the Court deems necessary and proper.

COUNT III: SALE FREE AND CLEAR

1-15. The plaintiff adopts and re-alleges paragraphs 1 through 15 of Count I, as though said paragraphs were fully set forth herein as paragraphs 1 through 15 of this Court III.

16. There is presently pending a Motion to Sell Free and Clear of any claims and interest in the Farm Property.

17. Subsequent to the sale pursuant to the sale free and clear of liens and claims, the liens and claims, if any, would attach to the proceeds.

18. Pursuant to 11 U.S.C. 363(h), a partition between the estate and the co-owner's one-half interest in the Farm Property would not be practicable under the circumstances because the Farm Property contains a number of buildings, including a residential house. In addition, the sale of the estate's undivided one-half interest in the Farm Property would realize significantly less income for the estate than the sale of the Farm Property free of the interest of the co-owner, and the benefit of the sale of the Farm Property greatly outweighs any detriment to the co-owner's interest in the Farm Property.

19. Upon information and belief, the Trustee believes that one-half of the proceeds would be payable to the estate and the other one-half of the proceeds would be payable to Harriett P. Vance.

WHEREFORE, the Trustee, Thomas J. Lester, respectfully requests this Court to enter an order authorizing the Trustee to sell the Farm Property at a price and by a procedure to be determined at a later date, free and clear of all liens and claims, to order

one-half of the proceeds payable to the estate and the other one-half payable to Harriett P. Vance, and that the Court grant such other relief as it deems necessary and proper.

THOMAS J. LESTER, TRUSTEE

BY: McGreevy, Johnson & Williams, P.C. His Attorneys

BY: "s/Daniel M. Donahue"
DANIEL M. DONAHUE

Daniel M. Donahue
McGreevy, Johnson & Williams, P.C.
850 North Church Street
P.O. Box 1201
Rockford, Illinois 61105-1201
815-963-8451

SECURITY UNION TITLE INSURANCE COMPANY
COMMITMENT FOR TITLE INSURANCE
SCHEDULE A

Prepared For: HINSHAW AND CULBERTSON
ATTN: ATTORNEY M. SPRINGER

1. Effective Date: June 23, 2000 at 8:00 a.m.
Address Given: 15858 Brick School Road
Pecatonica, IL. 61063

2. Policy or Policies to be issued: Our No. 70116

Proposed Insured: PURCHASER TO BE NAMED
Amount: $ TO BE DETERMINED . . .

3. The estate or interest in the land described or referred to in this Commitment and covered herein is:

Fee simple

4. Title to the Fee simple estate or interest in said land is at the effective date hereof vested in:

THOMAS LESTER, TRUSTEE IN BANKRUPTCY FOR CLARENCE L. VANCE, BANKRUPT

5. The Land referred to in the Commitment is in the State of Illinois, County of Winnebago . . .

COMMITMENT FOR TITLE INSURANCE NO. 70116
SCHEDULE B -SECTION 1

The following are the requirements to be complied with: . . .

2. Instruments in insurable form which must be executed, delivered and duly filed for record:

a. Trustee's Deed from THOMAS LESTER, TRUSTEE IN BANKRUPTCY FOR CLARENCE L. VANCE, BANKRUPT conveying fee simple title to PURCHASER TO BE NAMED. . . .

COMMITMENT FOR TITLE INSURANCE NO. 70116
SCHEDULE B -SECTION 2

. . . C. SPECIAL EXEMPTIONS:

1. Taxes for the year 2000 and subsequent years.

New Property Code: 09-09-300-007
Old Property Code: 441-501A (1999 $2,537.10)
1999 tax rate $.82420 . . .
Lot Dimensions 178.62 Acres
Pecatonica Township

"0048836 09/28/2000 08:33A "s/Kenneth Staaf"
Ken Staaf Winnebago County Recorder
(BRK)pt 441-501A 09-09-300-007"

TRUSTEE'S DEED "REC'D Sep 28 2000"

THIS INDENTURE, made on September 26, 2000, between **THOMAS J. LESTER**, as Trustee of the Bankruptcy Estate of Clarence L. Vance, Debtor, Case No. 97 B 50687, now pending in the United States Bankruptcy Court for the Northern District of Illinois, Western Division, ("Trustee") and **ALAN F. MILLER**, ("Purchaser").

On March 10, 1997, a voluntary petition was filed in the United States Bankruptcy Court for the Northern District of Illinois, Western Division, pursuant to which an order for relief was entered against Debtor, administration of such Debtors estate was referred to Richard N. DeGunther, Bankruptcy Judge, and now Manuel G. Barbosa, Bankruptcy Judge, and Thomas J. Lester was appointed Trustee of such Debtor's estate and effect, who qualified as Trustee, and has been ever since acting as such Trustee; and

On motion of Trustee, and on due notice to all creditors claiming to hold an interest in the estate and real estate described below, such Court made an order authorizing and directing Trustee to sell the real estate described below free and clear of all liens and other interests in such real estate, such claims of lien and rights to be transferred to the proceeds of the sale; and

Pursuant to such Order, Trustee entered into a Contract for Purchase and Sale with Purchaser for the sum of Sixty-Eight Thousand Four Hundred and Fifty-Two and 58/100 DOLLARS ($68,452.58) and the

Bankruptcy Court has entered an Order approving said sale.

NOW, THEREFORE, I, as Trustee of the Estate of Clarence L. Vance, Debtor, and by virtue of the title and powers vested in me by the provisions of the Bankruptcy Code, and by such Orders of the Bankruptcy Court authorizing the sale, and for and in consideration of the sum of Sixty-Eight Thousand Four Hundred and Fifty-Two and 58/100 DOLLARS ($68,452.58), to me in hand paid by Purchaser, the receipt of which is acknowledged, give, grant, bargain, sell, set over, and convey to Purchaser, **ALAN F. MILLER**, his heirs, executors, and assigns free and clear of all claims of lien and interests therein, all my right, title, and interest in and to the following described real estate:

> Part of the Southwest Quarter (1/4) of Section Nine (9), Township Twenty-Seven (27) North, Range Ten (10) East of the Fourth (4th) Principal Meridian, bounded and described as follows to wit: Beginning at the Southeast corner of the Southwest Quarter of said Section; thence North 89*-50'-57" West, along the South line of said Section, 808.50 feet to the West line of the East 49 Rods of the southeast Quarter of the Southwest Quarter of said Section; thence North 00*-14'-25" East, along the West line of the East 49 Rods of the Southeast Quarter of the Southwest Quarter of said Section, 1303.10 feet to the North line of the Southeast Quarter of the Southwest Quarter of said Section; thence North 89*-48'-30" East, along the North line of the Southeast Quarter of the Southwest Quarter of said Section, 808.52 feet to the Northeast corner of the Southwest Quarter of the Southwest

Quarter of said Section; thence South 00°-14'-25" West, along the East line of the Southwest Quarter of said Section, 1307.93 feet to the point of beginning. Subject to the rights of the public and the State of Illinois in and to those portions thereof taken, used or dedicated for public road purposes. Situated in Winnebago County, Illinois.

Subject to: Real Estate Taxes for the year 1997 and all subsequent years, and any and all easements, restrictions, covenants and encumbrances of record.

To have and to hold the same to Purchaser, **ALAN F. MILLER**, his heirs, executors, and assigns forever, as fully and completely as I, as Trustee, by virtue of the powers and authority so vested in me might or should sell and convey the property.

IN WITNESS WHEREOF, I, as Trustee, have set my hand on this 26 day of September, 2000.

THOMAS J. LESTER, Trustee of the Bankruptcy Estate of Clarence L. Vance, Case No. 97 B 50687

"s/Thomas J. Lester"
THOMAS J. LESTER

STATE OF ILLINOIS)
) SS
WINNEBAGO COUNTY)

I, the undersigned a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT THOMAS J. LESTER personally known to me to be the duly appointed Trustee of the Bankruptcy Estate of Clarence L. Vance, Debtor, and

personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person acknowledged that as such Trustee of said Bankruptcy Estate of Clarence L. Vance, Debtor, he signed and delivered the said instrument as Trustee of said Estate of Clarence L. Vance, Debtor, as his free and voluntary act, and as the free and voluntary act and deed of said Trustee for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 26th day of September, 2000.

"s/Rhonda Holmes"
Notary Public

Commonly known:

(Notary Seal)

Tax Code No.: Part of 441-501A

Future Taxes and Return to:
Alan F. Miller, 411 Sheridan Drive, Loves Park, IL 61111

By: Hinshaw & Culbertson, 100 Park Avenue, P.O. Box 1389, Rockford, IL 61105, (815) 963-8488

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT, WINNEBAGO COUNTY

(Filed "9 10 04")

PEOPLE OF THE STATE OF ILLINOIS
Plaintiff,

vs. Case No. 01 CF 2701

CLARENCE L. VANCE
Defendant,

PEOPLE'S FIRST MOTION IN LIMINE

NOW COME the People of the State of Illinois, by Paul A. Logli, State's Attorney for the County of Winnebago, Illinois and Charles J. Prorok, Assistant State's Attorney, and move this Court to enter an order preventing the Defendant, Clarence L. Vance from presenting any evidence, by any means, regarding his belief that the land that is the subject of this case was acquired by the landowner improperly and preventing the Defendant from making any reference to that subject in the presence of the jury. In support of this motion, the People state the following:

1. This case is scheduled for trial on Monday, September 20, 2004.
2. The Defendant, Clarence L. Vance is representing himself, Pro Se.
3. The Defendant is charged with the offense of Criminal Damage to Property exceeding $300 but not exceeding $10,000. The property in question was soy beans.
4. The elements of this offense are that the property allegedly damaged was the property of another person, that the Defendant did not have permission of

the owner to damage the property and that the value of the property exceeded $300.00.

5. That the Defendant has filed numerous motions in this case seeking a dismissal of the charge because of his belief that the land upon which the soy beans were growing was "illegally" sold to the current owner by the United State's Bankruptcy Court.

6. That the issue of whether the United State's Bankruptcy Court had the authority to sell the land in question is irrelevant and immaterial to any of the issues before the court in this case.

WHEREFORE, the People of the State of Illinois pray that this court grant this motion and enter an order preventing the Defendant from offering evidence in any form and from making any comments in the presence of the jury regarding his belief that the land upon which the soy beans were growing was obtained by the land owner improperly.

PEOPLE OF THE STATE OF ILLINOIS

By: "s/Charles J. Prorok"
Charles J. Prorok
Assistant State's Attorney

CHARLES J. PROROK
Assistant State's Attorney
400 West State Street, Suite 619
Rockford, Illinois 61101
815-987-3179

STATE OF ILLINOIS
CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT, WINNEBAGO COUNTY

PEOPLE OF THE STATE OF ILLINOIS
Plaintiff,
vs. Case No. 01 CF 2701
CLARENCE L. VANCE
Defendant,

ORDER

THIS CAUSE coming before the Court on the People's First and Second Motion in Limine, the Defendants Motion to Vacate Bill of Indictment, the Defendant present pro se and the People present by Assistant State's Attorney Charles J. Prorok, the Court having reviewed the pleadings and considered the arguments of the parties and makes the following findings.

IT IS HERE BY ORDERED

1) The Motion for the Judge to Conduct Voir Dire is granted. The Court will conduct voir dire and the parties may submit written questions to the Court which the Court may use at its discretion.

2) The Motion in Limine is granted to the extent that the Defendant is not permitted to comment on or present evidence concerning the bankruptcy proceeding.

3) The Defendant's Motion to Dismiss the Indictment is denied.

Dated: "10/15/04"

"s/Richard W. Vidal"
JUDGE

STATE OF ILLINOIS
CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT, WINNEBAGO COUNTY

PEOPLE	)	Case No. 01 CF 2701
	)	01 CM 8121
vs.	)	02 CM 637
	)	02 CM 3066
CLARENCE L. VANCE	)	02 CM 6438
	)	

ORDER

As to the Defendant's Motion To Dismiss, the Court finds as follows:

1) The ownership interest of Alan Miller is irrelevant to the issue of whether damage was done to property belonging to Craig Dummer.

2) The issue raised by the Defendant are res judicata as already determined by the action in 97 ED 1, and the Bankruptcy proceeding.

3) The Rooker-Feldman is in-applicable to these state court proceedings.

Accordingly, the Defendant's Mo. to Dismiss is Denied, and the case set for status and further proceedings on January 10, 2007 at 1:30 pm.

Dated: "12/1/06"

"s/Richard W. Vidal"
JUDGE

(2)

No. 10-381

Supreme Court, U.S.
FILED
NOV 26 2010
OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

CLARENCE L. VANCE,

Petitioner,

v.

PEOPLE OF THE STATE OF ILLINOIS,

Respondent

On Petition For A Writ Of Certiorari To
The Illinois Second District Appellate Court
Denied on November 1, 2010

PETITION FOR REHEARING

Clarence L. Vance
Petitioner, Pro Se
2203 Halsted Rd.
Rockford, IL 61103
(815) 637-2986

REASONS FOR GRANTING THIS PETITION

The November 1, 2010 Order of this Court denied the Petition for a Writ of Certiorari in the instant Case. Said Petition addresses the criminal conviction of Petitioner, which conviction is based entire upon actions previously authorized by the Federal Bankruptcy Court in the statutory absence of jurisdiction.

By said denial, this Court apparently failed to consider that, pursuant to both pertinent and established Laws enacted by the Congress of the United States as authorized by Article I Section [1] of the United States Constitution and pertinent and published decisions of this Court and other State and Federal Courts in support of those Laws so enacted by said Congress, Bankruptcy Courts are deprived of jurisdiction by said Laws to authorize the subject actions, as is addressed in said Petition.

An exceptional case is addressed in said Petition in that the validity of the subject Laws so enacted by the Congress of the United States and published decisions in support of those Laws, rendered by this Court and other State and Federal Courts, have effectively and consistently been drawn into question by the actions of said Bankruptcy Court and the Illinois State Courts, as is addressed in said Petition, and now by said denial of said Petition.

By said denial, this Court also apparently failed to consider that the validity of said Laws, so enacted by the Congress of the United States, and said supporting Court decisions have been further drawn into question by the ongoing disregard of said Laws and said decisions.

Said denial by this Court constitutes an intervening and substantial ground for the filing of this Petition for Rehearing.

The Supremacy Clause in Article VI Section [2] of the Constitution of the United States explicitly declares, in pertinent part, that:

> "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; . . . shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby . . .."

Pursuant to "*This Constitution*", compliance with "*the supreme Law of the Land*" is not discretionary.

The Federal Statute now codified as 28 U.S.C. 1257 was originally enacted by the Congress of the United States in 1789, as so authorized.

Said Statute, until now, has been supported by the *Rooker-Feldman* doctrine of this Court. The applicability and pertinence of said doctrine having been further clarified by both the 2005 *Exxon Mobil* decision (544 U.S. 283) and the 2006 *Lance v. Dennis* decision (546 U.S. 459) of this Court, as is cited in said Petition.

By said denial, this Court effectively approved: **(A)** The Bankruptcy Court's utter disregard of the subject prior 1998 state-court judgment, which judgment judicially confirmed and validated both the lawful and recorded ownership of the subject real estate and the subject 1983 transfer of ownership; **(B)** The Bankruptcy Court's subsequent entertaining of the subject contrary 1999 ownership claim, alleged on behalf of a named party defendant to that prior state-court action and judgment, and thereupon effectively voided said prior state-court judgment, all in the absence of jurisdiction pursuant to 28 U.S.C. 1257, as is supported by said *Rooker-Feldman* doctrine; and **(C)** The subsequent disregard by the Illinois State Courts of both the effective and conclusive adjudication of the ownership issue set forth in said prior state-court

judgment and the Bankruptcy Court's statutory absence of jurisdiction to effectively void said state-court judgment.

By the denial of said Petition, this Court effectively abrogated said 28 U.S.C. 1257 and said *Rooker-Feldman* doctrine by the effective approval of the Bankruptcy Court's disregard and usurpation of the jurisdiction, lodged exclusively in this Court since 1789 by the Congress of the United States, to reverse or modify or effectively void a state-court judgment.

The validity of "*This Constitution*" and 28 U.S.C. 1257, as so enacted by the Congress of the United States, and said *Rooker-Feldman* doctrine have each been further drawn into question by said denial.

By the Federal Statute now codified as 11 U.S.C. 544(b), Bankruptcy Trustees are empowered by the Congress of the United States with the right to avoid a transfer of property that is voidable only under applicable law by a creditor holding an unsecured claim, as is addressed in said Petition.

Pursuant to the 1931 *Moore v. Bay* decision of this Court (284 U.S. 4) and pertinent Federal Court decisions cited in said Petition, Bankruptcy Trustees are actually deprived of the rights of secured creditors unless there is at least one unsecured creditor that has standing to bring the subject cause of action.

By the Federal Statute now codified as 11 U.S.C. 550(a), Bankruptcy Trustees are empowered by the Congress of the United States with the right to avoid such a transfer of property only for the benefit of the estate, which estate is to be comprised solely of unsecured creditors, as addressed in said Petition.

By the denial of said Petition, this Court effectively abrogated said 11 U.S.C. 544(b) and said 11 U.S.C. 550(a) by the effective approval of the Bankruptcy Court's utter disregard of said limitations

imposed upon a Bankruptcy Trustee by the enactment of said Laws by the Congress of the United States, as so authorized by the Constitution of the United States.

By said denial, this Court also effectively approved: **(A)** The subject actions of the Bankruptcy Court, taken solely for the benefit of the self-declared "*secured creditor*" in the utter disregard of the fact that the Bankruptcy Court Record establishes categorically that there was absolutely no unsecured creditor in that Case with standing to bring said subsequent 1999 cause of action; and **(B)** The subsequent actions of the Courts of Illinois which effectively approved and supported the subject prior Bankruptcy Court actions conducted in said statutory absence of jurisdiction.

The validity of "*This Constitution*" and 11 U.S.C. 544(b) and 11 U.S.C. 550(a), as so enacted by the Congress of the United States, and Federal Court decisions in support of said Congressional enactments have each been further drawn into question as a consequence of the denial of said Petition.

CONCLUSION

The denial of said Petition for Writ of Certiorari effectively abrogates both the "*the supreme Law of the Land*" and more than two hundred (200) years of American Jurisprudence and effectively initiates a new and uncharted and unauthorized course of jurisprudence in which "*the supreme Law of the Land*" and the Rule of Law are no longer controlling.

To preserve and protect "*the supreme Law of the Land*" and well established American Jurisprudence and the public confidence therein, this Court needs to rehear or reconsider its denial of said Petition for a Writ of Certiorari and enter an Order consistent with

"*the supreme Law of the Land*" and the Rule of Law.

Dated: November 24, 2010

Respectfully submitted,

Clarence L. Vance
Petitioner

CERTIFICATE OF COMPLIANCE

Pursuant to Supreme Court Rule 44(2) this Petition for Rehearing is restricted to intervening circumstances of a substantial effect and is presented in good faith and not for delay.

Dated: November 24, 2010

Clarence L. Vance
Petitioner